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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Calling Party Pays Service Option) WT Docket No. 97-207
in the Commercial Mobile Radio Services)
_____)

**COMMENTS OF SBC COMMUNICATIONS INC.
ON CTIA's PETITION**

SBC Communications Inc. ("SBC"), on behalf of its wireline and wireless subsidiaries,¹ submits these Comments on the Petition for Expedited Consideration of the Cellular Telecommunications Industry Association ("CTIA") filed on February 23, 1998 in the above-captioned proceeding concerning Calling Party Pays ("CPP"). CTIA's Petition does not add anything to the record in this proceeding. The comments and reply comments already filed in response to the *Notice of Inquiry* fully address CTIA's Petition and should be relied on in disposing of it.

SBC agrees with CTIA that the Commission should take expedited action in this proceeding; that action, however, should be to dismiss the proceeding, not to issue the *Notice of Proposed Rulemaking* that CTIA requests. SBC agrees with CTIA, and the vast majority of record evidence in this proceeding, that market forces should be relied

¹ SBC's wireline subsidiaries are Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell. SBC's wireless subsidiaries are Southwestern Bell Mobile Systems, Inc., Southwestern Bell Wireless Inc., and Pacific Bell Mobile Services.

on to shape CPP development.² Rather than “minimal Commission regulation to promote its development,”³ however, there should be no Commission regulation of CPP – and certainly no obligations imposed on non-CMRS carriers. In addition, SBC generally agrees with CTIA that “the CMRS carrier or its agent may perform billing and collection for CPP services, and the LECs, except when acting as agents for the CMRS provider, need not be involved in providing the billing and collection.”⁴⁵

CTIA does not add anything new to the record when it requests in its Petition (1) a national notification policy to inform callers that they will be billed for completing a CPP call and (2) regulations to provide Commission assurance that carriers have the means to create binding obligations with calling parties.⁶ SBC already has explained its position that notification for callers and creation of binding obligations are necessary wherever CPP is voluntarily offered.⁷ We also already have explained, however, not only why the Commission does not have authority over these or other aspects of CPP,⁸ but also why Commission regulations are not needed.⁹ Like CPP requirements in general, consumer notification should be left, not to regulations, but to individual negotiations of the carriers, who must compete to provide services that are desirable to

² CTIA Petition at 3-4.

³ *Id.*

⁴ *Id.* at 6.

⁵ While the relationship between the CMRS carrier and any third party performing CPP billing and collection will be defined by their agreement, SBC believes that the legal arrangement will usually be an agreement with an independent contractor, and not a fiduciary agency relationship. Any agency relationship requires the mutual consent of both the principal and the agent; absent such consent, no agency relationship exists.

⁶ CTIA Petition at 4-5 and 7-8.

⁷ Comments of SBC at 18-24.

⁸ *Id.* at 3-7.

⁹ *Id.* at 18, 21-24.

consumers. As the Commission already has explained, it is the provision of adequate consumer notification, not Commission assurance, that should be relied on to provide an enforceable obligation between the service provider and the calling party in circumstances, such as with CPP, where the calling party does not have a written contract with the service provider.

The record does not provide a basis for the nationwide rules that CTIA requests. The record shows numerous technological and implementation problems with CPP where it has been offered and does not indicate that it is likely to be made available on a nationwide basis in the reasonably near future.¹⁰ The most that CTIA, “a long-time proponent of CPP,”¹¹ can say in favor of CPP in its Petition is that “CPP may create more balanced traffic flows between CMRS providers and local exchange carriers (‘LECs’), thereby rendering CMRS services more competitive.”

In fact, the record shows that, because most landline customers in the United States are accustomed to placing local calls at non-usage-sensitive rates, attempting to get landline calling parties to pay usage-based wireless rates for calls to wireless subscribers is extremely unlikely to stimulate, and may depress, calls to wireless customers.¹² Under the most basic understanding of supply and demand, raising a price – especially one that was set at “free” – can only be expected to decrease demand for that service. The record does not indicate that there are any benefits of CPP that would offset this decreased demand. Since the Commission’s whole goal in

¹⁰ See, e.g., SBC’s Comments at 10-11 and Reply Comments at 22-24.

¹¹ CTIA Comments at 2.

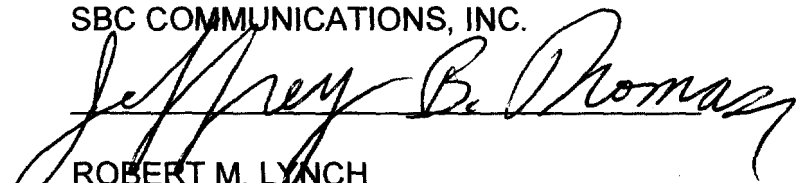
¹² See, e.g., SBC’s Comments at 11-13.

opening this proceeding was to see if encouraging CPP would stimulate competition between wireless and wireline services,¹³ and the record does not support that finding, continuing this proceeding in order to create mandatory nationwide standards for CPP would be contrary to the Commission's goal.

For the above reasons and based on the comments and reply comments previously filed in this proceeding, the Commission should allow market forces to determine the success or failure of CPP, and where and how it may be provided, and should not conduct a rulemaking proceeding on CPP. Accordingly, the Commission should immediately dismiss this proceeding.

Respectfully submitted,

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¹³ NOI at para. 1.